

REMARKS/ARGUMENT

Claims 1-24 are pending. Claims 12 and 23 have been amended. Claims 1, 12, 23 and 24 are independent.

Claims 1-24 were rejected under 35 U.S.C. § 102(e) as anticipated by, or under 35 U.S.C. § 103, as obvious from, Togher. Applicants respectfully traverse.

Each of independent claims 1, 12, 23 and 24 recite a trading system with a plurality of matching engines where, at any given time, not all of the matching engines are active. In particular, claim 1 recites that at any given time, only one of the matching engines is active performing price matching and deal execution, the remaining matching engines being passive.

This recitation is intended by Applicants to mean, and is believed to already clearly recite, that *at no time is more than one of the matching engines active* performing price matching and deal execution.

Togher discloses a plurality of active matching engines or arbitrator nodes. Each arbitrator node is active and may operate independently, that is, may act without communication with the other arbitrators. Further, Togher teaches that at the same time one arbitrator is processing deals, any of the other arbitrators may be *simultaneously* processing deals, for example in relation to other traders in other trading regions: “at the same time [one ARB is identifying a final match and coordinating its execution] the other ARB’s can simultaneously be processing deals related to other traders in other regions.” (Col. 5, lines 40-50).

On the other hand, claim 1 recites that at *any* given time, only one matching engine is active performing price matching and deal execution, that is, at no time is more than one matching active. This recitation contradicts the above cited teaching of Togher.

In the Office Action, it was conceded that in Togher “simultaneously other arbitrators may be processing deals” Office Action at page 3, lines 14-15. Since claim 1 defines a system in which at *no time* are more than one matching engine active, it is believed clear that even under the Examiner’s analysis of Togher, that reference does not teach a system in which at *no time* are more than one matching engine active, since Togher allows more than one to be active at least some time. It is believed clear from the foregoing that claim 1 is patentable over Togher and withdrawal of the rejection is respectfully requested.

Amended claim 12 recites the same feature of claim 1 discussed above and is believed patentable for at least the same reasons.

As to claim 24, that claim recites that at any given time, more than one, but less than all of the matching engines is active to perform identification and execution of trades. This means, inter alia, that at no time are all the matching engines active.

In the first place, in Togher, the arbitrators *never* have a truly passive mode. While the arbitrators may serve to relay deals made by other arbitrators to market distributors, they are never passive where they are only operating as forwarding engines for deals made by the active arbitrator. As discussed above, any arbitrator may *at any time* execute deals. Second, Togher certainly does not teach anywhere that at no time are all the matching engines active. In fact, it is clear that all the ARB’s in Togher may be active simultaneously, which contradicts the recitation of claim 24 to the effect that at no time are all the matching engines active. For at least this reason, claim 24 is believed clearly

patentable over Togher. Amended claim 23 recites a substantially similar feature and is believed patentable for substantially similar reasons.

In the Office Action, the position was taken that during periods of time after business hours in a particular time zone, for example, certain arbitrators would not be active, in that they would not be busy executing trades. While it may be the case that certain arbitrators will not be making trades during particular off hours, those arbitrators in Togher are not passive, since they are capable at any time of making a trade, upon receipt of appropriate communications, for example.

In any event, even if it were true (which it is not) that some arbitrators in Togher are sometimes not active, this would not meet the features of the independent claims. Claims 1 and 12 define a system in which *at no time* are more than one arbitrator active. This feature is not met by an alleged teaching that sometimes an arbitrator might not be active. Nor does this alleged teaching of Togher meet the features of claims 23 and 24 above.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In the Office Action, the position was taken that claims 23 and 24 were somehow contradictory with claims 1 and 12. This is not correct. Claims 1 and 12, in which no more than one arbitrator is active at any time, are more specific embodiments (i.e., special cases) of the feature that less than all of the arbitrators are active at one time, which is what is recited in claims 23 and 24. Thus, claims 1 and 12 do not contradict

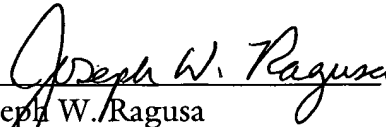
claims 23 and 24, contrary to the position taken in the Office Action.

This Amendment After Final Rejection is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. At the very least, however, it is believed clear that the formal rejections/objections have been overcome. Moreover, the only amendments bring the wording of claim 12 in greater conformity with that of unamended claim 1, and bring the wording of claim 23 in greater conformity with claim 24. Accordingly, entry of this Amendment After Final Rejection, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested.

In view of the foregoing remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

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Respectfully submitted,

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